

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:09-HC-2083-BO

UNITED STATES OF AMERICA,                     )  
    Petitioner,                                 )  
   )  
    v.   )             O R D E R  
   )  
CLYDE M. HALL,                                 )  
    Respondent.                                 )

Petitioner brought this action pursuant to 18 U.S.C. § 4248, seeking the Court's determination that Respondent Clyde M. Hall ("Mr. Hall") is a sexually dangerous person who, instead of being released following his incarceration, should be subject to mandatory civil commitment for mental treatment. Enacted as part of the Adam Walsh Child Protection and Safety Act of 2006 ("the Walsh Act"), § 4248 requires the civil commitment of certain individuals who are determined to be sexually dangerous to others. 18 U.S.C. § 4248(a). To order such commitment, the Court must conclude, after an evidentiary hearing at which the Government bears the burden of proof by clear and convincing evidence, that an individual is a sexually dangerous person as defined by the Walsh Act. If a court finds that the Government has satisfied that burden, the individual must be committed to a suitable facility for mental treatment until he is determined to no longer be sexually dangerous to others. 18 U. S. C. § 4248(d).

Pursuant to § 4247(d) of the Walsh Act, the Court conducted an evidentiary hearing in this matter on June 6 and 7, 2011. On July

11, 2011, the Court directed the parties to submit Proposed Findings of Fact and Conclusions of Law. The parties' submissions have now been filed and reviewed by the Court.

Respondent's Findings of Fact and Conclusions of Law ("Findings") [DE 76] are hereby incorporated by reference as if fully set forth within this Order. Pursuant to Federal Rule of Civil Procedure 52(a), the Court **ADOPTS** Respondent's Findings in toto and **ENTERS** those Findings as its own in support of the Judgment in this matter.

As set forth more fully in the Findings, the Court now holds that:

(1) Mr. Hall has been deprived of equal protection of the law under the Fourteenth and Fifth Amendments to the United States Constitution since, under the circumstances, there is no rational basis for the Walsh Act's differentiation between individuals in the custody of the Federal Bureau of Prisons and individuals in the general public;

(2) Mr. Hall has been deprived of his due process rights under the Fifth Amendment to the United States Constitution because the Government failed to bring Mr. Hall before the Court for a final commitment hearing within a reasonable time after it filed the Petition seeking commitment pursuant to the Walsh Act; and


(3) the Government has failed to establish by clear and convincing evidence that Mr. Hall is sexually dangerous to others

as required by the Act and by the Constitution.<sup>1</sup>

The Court notes that the aforementioned constitutional flaws are, standing in isolation, sufficient for a dismissal of this cause. As an alternative holding, however, the Court has assumed the constitutional validity of the Walsh Act and nevertheless finds that the Government has not made the evidentiary showing required to civilly commit the Respondent.

Accordingly, judgment shall be entered in favor of the Respondent, Clyde M. Hall, and against the Petitioner, the United States of America. The Government is **ORDERED** to release the Respondent, Clyde M. Hall, forthwith to the custody and supervision of the appropriate United States Probation Office. This action is hereby **DISMISSED**.

DONE AND ORDERED, this 15 day of August, 2011.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>The Walsh Act requires the Government to establish three things by clear and convincing evidence before obtaining a commitment order: (1) that the respondent has engaged or attempted to engage in sexually violent conduct or child molestation, (2) that the respondent suffers from a serious mental illness, abnormality, or disorder, and (3) as a result of respondent's mental illness, abnormality, or disorder, the respondent would have serious difficulty refraining from sexually violent conduct or child molestation if released. 18 U.S.C. §§ 4247(a)(5)–(6).

As set forth in the Findings, it is conceded and the Court finds that Respondent has committed acts of child molestation in the past. As to the second fact that must be proven, the Court finds that Respondent meets the diagnostic criteria for pedophilia and antisocial personality disorder, conditions which constitute a "mental illness, abnormality, or disorder" within the meaning of the Walsh Act. The Court notes that although pedophilia is a chronic disease, it does not carry with it any necessary implications regarding a level of volitional control. Regarding the third and final factor for commitment under the Walsh Act, the Court finds that the Government has not proven by clear and convincing evidence that Respondent suffers from a volitional impairment such that he would have "serious difficulty refraining from sexually violent conduct or child molestation if released."